

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X

Brendan Castronuovo,

Plaintiff,

Civil Action No.: _____

vs.

Enhanced Recovery Company, LLC,

Defendant.

-----X

U.S. DISTRICT COURT
2012 DEC 10 PM 2:51

S.D. OF N.Y.

12 CV 6657
COMPLAINT AND DEMAND
FOR TRIAL BY JURY

JUDGE SEIBERT

Plaintiff Brendan Castronuovo (“Plaintiff” or “Castronuovo”), by and through its attorneys, FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for its Complaint against the Defendant Enhanced Recovery Company, LLC (“Defendant” or “ERC”), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant’s violation(s) of Sec. 1692 et. seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collection Practices Act (“FDCPA”).

PARTIES

2. Plaintiff is a resident of the State of NY, County of Rockland, residing at 68 Campbell Avenue, Suffern, NY 10901.

3. Defendant is a collection firm with a principal place of business at 8014 Bayberry Rd, Jacksonville, FL 32256, and, upon information and belief, is authorized to do business in the State of NY.

4. ERC is a “debt collector” as the phrase is defined and used in the FDCPA.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. Sec. 1331, as well as 15 U.S.C. Sec. 1692 et. seq. and 28 U.S.C. Sec. 2201. If applicable, the Court also has pendent jurisdiction over the State law claims in this action pursuant to 28 U.S.C. Sec. 1337(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1331(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “6” herein with the same force and effect as if the same were set forth at length herein.

8. Upon information and belief, on a date better known to the Defendant, the Defendant began collection activities on an alleged consumer debt from the Plaintiff (“Alleged Debt”).

9. In or about July 2012, the Defendant placed at least six (6) telephone calls to the Plaintiff using an autodialer, and left messages for the Plaintiff on a shared answering system. See “Exhibit A – Transcript”.

10. Said messages contained personal and confidential information.

11. Said messages were attempts to collect a debt, and they were left on an answering machine which was played and heard by one or more third parties who each had the right and opportunity to play same.

12. Said messages were heard, amongst others, by the Plaintiff's brother, Robert Castronuovo.
13. The actions of the Defendant led to embarrassment, harassment, and disclosure of confidential information to a third party.
14. Said actions by the Defendant violated 15 U.S.C. Sec. 1692b(2) and 15 U.S.C. Sec. 1692c(B) which prohibit communicating with anyone except consumer and communicating to a third party, stating that a consumer owes a debt.
15. Said actions by the Defendant also violated 15 U.S.C. Sec. 1692d(5) which prohibits causing the phone to ring repeatedly.
16. As a result of the Defendant's deceptive, misleading and/or unfair debt collection practices, the Plaintiff has been damaged.

FIRST CAUSE OF ACTION

(Violations of the FDCPA)

17. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "16" herein with the same force and effect as if the same were set forth at length herein.
18. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violate various provisions of the FDCPA, including but not limited to 15 U.S.C. Sec. 1692b(2), 15 U.S.C. Sec. 1692c(B) and 15 U.S.C. Sec. 1692d(5).
19. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

20. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues in this complaint to which the Plaintiff is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Brendan Castronuovo demands judgment against the Defendant Enhanced Recovery Company, LLC as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. Sec. 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 U.S.C. Sec. 1692k(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 U.S.C. Sec. 1692k(a)(3);
- D. For a declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
November 29, 2012

Respectfully submitted,

By: _____

Aryeh L. Pomerantz, Esq.
Fredrick Schulman & Associates
30 East 29th Street
New York, New York 10016
(212) 796-6053
aryeh@fschulmanlaw.com
attorney for Plaintiff

Exhibit A - transcript

Hello this message is for Brendan Castronuovo. If this is not Brendan Castronuovo please delete this message as it is not for you.

This is Bob with Enhanced Recovery Company we are a collection agency attempting to collect a debt and any information obtained will be used for that purpose. Please contact me about this business matter at 1-800-278-2420 or visit www.kerc.com and provide the following reference number 59485396.